

Introduced by Senator Scott

February 22, 2006

An act to amend Section 606.5 of the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1428, as introduced, Scott. Unemployment compensation: employment: loaned employee.

Existing law governing unemployment insurance defines "employment" for those purposes, and, with respect to an employee who is loaned from one employer to another, specifies the circumstances under which the loaning employer is continued to be treated as the employer of the loaned employee.

This bill would make nonsubstantive technical changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 606.5 of the Unemployment Insurance
2 Code is amended to read:
3 606.5. (a) Whether an individual or entity is the employer of
4 specific employees shall be determined under common law rules
5 applicable in determining the employer-employee relationship,
6 except as provided in subdivisions (b) and (c).
7 (b) As used in this section, a "temporary services employer"
8 and a "leasing employer" is an employing unit that contracts with
9 clients or customers to supply workers to perform services for the
10 client or customer and performs all of the following functions:

1 (1) Negotiates with clients or customers for such matters as
2 time, place, type of work, working conditions, quality, and price
3 of the services.

4 (2) Determines assignments or reassignments of workers, even
5 though workers retain the right to refuse specific assignments.

6 (3) Retains the authority to assign or reassign a worker to
7 other clients or customers when a worker is determined
8 unacceptable by a specific client or customer.

9 (4) Assigns or reassigns the worker to perform services for a
10 client or customer.

11 (5) Sets the rate of pay of the worker, whether or not through
12 negotiation.

13 (6) Pays the worker from its own account or accounts.

14 (7) Retains the right to hire and terminate workers.

15 (c) If an individual or entity contracts to supply an employee
16 to perform services for a customer or client, and is a leasing
17 employer or a temporary services employer, the individual or
18 entity is the employer of the employee who performs the
19 services. If an individual or entity contracts to supply an
20 employee to perform services for a client or customer and is not
21 a leasing employer or a temporary services employer, the client
22 or customer is the employer of the employee who performs the
23 services. An individual or entity that contracts to supply an
24 employee to perform services for a customer or client and pays
25 wages to the employee for the services, but is not a leasing
26 employer or a temporary services employer, pays the wages as
27 the agent of the employer.

28 (d) ~~In circumstances which are in essence the~~ *When there is a*
29 *loan of an employee from one employer to another employer*
30 *wherein the direction and control of the manner and means of*
31 *performing the services changes to the employer to whom the*
32 *employee is loaned, the loaning employer shall continue to be the*
33 *employer of the employee if the loaning employer continues to*
34 *pay remuneration to the employee, whether or not reimbursed by*
35 *the other employer. If the employer to whom the employee is*
36 *loaned pays remuneration to the employee for the services*
37 *performed, that employer shall be considered the employer for*
38 *the purposes of any remuneration paid to the employee by the*

- 1 employer, regardless of whether the loaning employer also pays
- 2 remuneration to the employee.

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